

MACOMB TOWNSHIP ZONING BOARD OF APPEALS
MINUTES OF A REGULAR MEETING HELD
THURSDAY, AUGUST 1, 2019

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD, MACOMB, MI 48042

PRESENT: CHAIRMAN: AARON TUCKFIELD
MEMBERS: DAVID PIEPER
DAVID DeCOSTER
KRISTI POZZI

ABSENT: DAWN SLOSSON, SECRETARY (excused)

ALSO PRESENT: THOMAS ESORDI, TOWNSHIP ATTORNEY
(Additional attendance record on file with Clerk)

Call Meeting to Order.

Member DeCOSTER called the meeting to order at 7:00 P.M.

1. Roll Call.

Member DECOSTER called the roll and Member SLOSSON was absent and excused.

2. PLEDGE OF ALLEGIANCE.

Member DeCOSTER asked all in attendance to join in the Pledge of Allegiance.

3. Approval of Agenda Items. *(with any corrections)*
Note: All fees have been received and all property owners were notified by mail.

MOTION by TUCKFIELD seconded by PIEPER to approve the agenda as presented.

MOTION carried.

4. Approval of the previous meeting minutes.

MOTION by TUCKFIELD seconded by POZZI to approve the minutes of July 3, 2019 as amended.

MOTION carried.

5. Old Business:

None.

6. New Business:

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To consider the requests for variance(s) of Zoning Ordinance No. 10 for the following:

Agenda Number/Petitioner/ Permanent Parcel No.	Zoning Ordinance Section No.
(a) EIG 14T KCE 2 MI Macomb, LLC Permanent Parcel 08-22-400-023	Section 10.0323C.2.(e) 10.0357(1) 10.0323.E.8

- a. VARIANCE REQUEST FROM ZONING ORDINANCE
Section 10.0323C.2(e)-Which requires 60 parking spaces for this use. The applicant proposes 48 parking spaces (a variance of 12 spaces);
Section 10.0357(1)-To allow for a six foot high vinyl fence where a six foot high masonry wall and a landscape buffer are required;
Section 10.0323.E.8.- To allow for a six foot high vinyl fence where a six foot high masonry wall and a landscape buffer are required
Located on the northwest corner of 22 Mile Road and Card Road; Section 22; EIG 14T KCE 2 MI Macomb, LLC, Petitioner. Permanent Parcel 08-22-400-023

Member DeCOSTER presented the findings and recommendations of July 19, 2019 as follows:

VARIANCE REQUEST

- A variance to Section 10.0323C-2(e) which requires 60 parking spaces for this use. The applicant proposes 48 parking spaces (a variance of 12 spaces).
- A variance to Section 10.0357(1 & 10.0323.E.8. to allow for a six foot high vinyl fence where a six foot high masonry wall and a landscape buffer are required.

Planners Recommendation: The proposed parking variance does not provide a practical difficulty, but rather a rationale for lesser parking based on the use itself. This would warrant a banked parking agreement, but perhaps does not meet the criteria for a variance. If the use changes in the future, no room would be present to provide the additional parking. At a minimum, the applicant could provide the Planning Commission with a banked parking proposal showing adequate parking will fit on the site for a general office use.

If the ZBA finds that a practical difficulty exists on the site due to the easement and pond maintenance being in the way, we would highly recommend the entire fence on the north property line be replaced with a industrial rated vinyl fence.

The petitioner submitted a letter of practical difficulty dated July 1, 2019 as follows:

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“We are proposing to construct a KinderCare Learning Center at the northwest corner of 22 Mile Road and Card Road. The subject property is currently a vacant 2.64-acre parcel which was recently re-zoned O-1, Office. Our plans have been reviewed by Township Staff and we have been directed to seek the necessary variances from the Zoning Board of Appeals prior to proceeding to the Planning Commission for our Special Use Approval. We are seeking variances to allow the existing wood fencing and proposed vinyl fencing to be allowed in place of the required masonry wall. We are also seeking a parking space variance to allow a slight reduction in the amount of overall parking spaces for the childcare use.

There is an existing wood screen fence for much of the northern property line that outlines the rear yard of the residential property to the north. We are proposing to utilize the existing fence and supplement it along the northern property line, there is an existing 6 ft high privacy fence screening to the residence to the north.

Variance Requested:

We are seeking variance relief from the following sections of code:

Sec 10-0323 C-2(e)-The Macomb Township parking standards requires 60 parking spaces. Our current layout will allow for 48 parking spaces (a reduction of 12 spaces). Our client, KinderCare, has approximately 1500 locations nationwide and their standard parking area is 40 spaces. Based on this combined experience, we are extremely confident that the proposed layout and use will not create any traffic or parking issues for this development.

Sec 10.0357(1)-The Special Approval standard requires a 6 ft. high masonry wall and a landscape buffer. There is a 12 ft. wide Consumer’s Energy easement along the north property line that will not allow a masonry wall or plant material to be installed within its limits. We are proposing to allow the existing residential wood fence to remain and supplement the remainder of the property lines with a vinyl privacy fence in lieu of the masonry wall. We comply with all other requirements of the Special Approval.

Sec 10.2516.B1-The landscape Requirements section requires a parking lot to be screened by a 6 ft. Masonry wall or 8 ft. greenbelt. As stated above, there is a Consumers Energy easement on the northern property line that will not allow a masonry wall or greenbelt with plant material. Along the west property line is a 10 ft. wide maintenance area that is required for the detention pond that also can’t contain plant material. We are proposing to install a vinyl fence along the property line on the north side of our parking lot and along our west property line. We believe this will be more aesthetically pleasing for the adjacent residential properties.”

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John Szutarski, representative, was in attendance and stated that the site plan for the proposed Kindercare facility had been submitted in for review but that it had been pushed back to seek the variances from the Zoning Board of Appeals. He indicated that due to the 22 Mile Road setback requirement and the 12' gas easement from Consumers on the north end of the property it has shrunk the space available for the space to park vehicles. He noted that no structures could be built within the 12' easement and was trying to tie into the existing fence with a 6' high vinyl fence.

Thomas Esordi, Township Attorney, stated that after speaking with the Township Engineer, he questioned the parking spaces that are up towards 22 Mile Road frontage and wanted to ensure that he was requesting the correct number for a variance.

Member TUCKFIELD spoke of the easement along the north property line and it could not be built in. The question became if it would affect landscape only or if it would affect the landscape and wall.

John Szutarski, representative talked about the construction of building a wall and how it would encroach into their easement.

Member TUCKFIELD questioned the banked parking agreements and how it works.

Thomas Esordi, Township Attorney, he noted that if the variance were granted it would be based on the use of the facility. Therefore, it would be sufficient for them to use the spaces as indicated. The idea of the bank would be if they vacated the facility and it became anything other the new use would be required to have the 60 spaces and therefore would not be able to obtain a Certificate of Occupancy until the number of parking spots were increased. It would be appropriate in this case since were the area that they are using some of the fenced off area for a play area, its area that can be used for parking spaces. Lastly, this is an agreement that is maintained here at the Township office.

Member POZZI asked if they had received clarification from Consumers Energy about constructing a fence within their easement.

John Szutarski, representative, stated they have not received anything back, however in previous experiences they have received a solid no.

Chairman DeCOSTER asked on how they intended to connect the fence to Card Road.

John Szutarski, representative, stated he was intending to speak to the neighbors to the north to tie into their fence and also on the opposite end.

Member POZZI asked about putting fencing on the Kindercare property and putting the vinyle fencing all the way around to make it consistent.

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John Szutarski, representative, stated they would be agreeable to doing that and they would talk to the neighbors and would then tie into their fence and making it one solid fence along the north property line.

Public Portion:

Mary Pittman, 49101 Card Road, stated they would rather have a mason fence up for sound barrier. She indicated that they do not want them to tie into their fence.

Member POZZI asked if their would fence would still remain when either a vinyl or masonry wall was built.

Mary Pittman indicated that their fence would remain since it would allow more sound barrier and protection.

Member PIEPER questioned about the section of the Zoning Ordinance about double fencing.

John Szutarski, representative, detailed the fencing that is required on the site.

James Glefke, 21707 22 Mile Road, stated they he would like the 25 foot landscape berm as originally in the ordinance. That ordinance was put was put in place to protect residents like us. He further noted that he was not against development, however, our property line is 10 feet from our home, so if the 25 feet of landscape was not installed we would have a wall ten feet from our house.

A discussion was held regarding the development of the site and the process of the order in which plans are submitted for approved and when variances are applied for and received.

Thomas Esordi, Township Attorney, stated the whole purpose for the ordinance and the 25 foot buffer being on the inside of the wall is to require the owner of the property to maintain the buffer area. Otherwise you would have a facility with a masonry wall and 25 feet between that wall and your property and hope that it would be maintained sufficiently.

Member TUCKFIELD asked which would be preferred either a vinyl fence or a concrete wall.

No answer was given.

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Member TUCKFIELD stated that if there was a practical difficulty on the matter of the fence it would be based upon the easement. He went on to say that he was uncomfortable basing a practical difficulty on that easement when they would still be using the easement if a variance is granted. He stated that was the only practical difficulty that could be seen but stated he would feel better if the petitioner could receive a definitive answer whether or not they could construct on the easement.

Jim Glefke, 21707 22 Mile Road, stated the gas line under discussion feeds his house and could be moved to the road, but was not willing to pay for that movement.

Mark, a representative, stated that with a tabling it would put them in a limbo until receiving the requested letter. He asked if a tabling was necessary for the Consumer Easement variance if they could still proceed forward with the parking variance request.

MOTION by TUCKFIELD to grant a variance to Section 10.0323 C-2(e) from 60 spaces to 48 spaces contingent upon a Banked Parking Agreement that would revert to the necessary amount if the parcel were to go to a different use. This variance granting is based upon the fact that it is an unusual parcel, that the use would be a Special Land Use and not typical to the stated use of the parcel and to make sure the parcel is developed in an orderly fashion to a more or less intense use rather than what might be done if this were to not go through.

Thomas Esordi, Township Attorney, stated the Planners recommendation is not to grant the variance with a banked agreement. He stated the recommendation is deny the variance request for the parking spaces.

Discussion followed on the granting of the variance versus the denying of the variance and approving a banked parking agreement.

Member TUCKFIELD withdrew his motion.

John Szutarski, representative, asked Thomas Esordi, Township Attorney, if a variance could be granted contingent upon the petitioner entering into a banked parking agreement with the Township.

Thomas Esordi, Township Attorney, stated that they could, however, that is not what the Planning Consultant is recommending.

Chairman DeCOSTER stated the motion will be changed to deny the variance request to allow for you to go the administration and request the banked parking agreement.

Discussion followed for the purpose of receiving clarification of the granting of the variance contingent upon the banked parking agreement what would be the difference on denying of the variance and then going for a banked parking agreement.

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Chairman DeCOSTER stated it may be worth the time to ask for a tabling until September 5, 2019 to purpose the banked parking agreement.

MOTION by POZZI seconded by TUCKFIELD to postpone the variance request of Section 10.0323.C-2(e)-Which requires 60 parking spaces for this use. The application proposes 48 parking spaces (a variance of 12 spaces); Section 10.0357(1)-To allow for a six foot high vinyl fence where a six foot high masonry wall and a landscape buffer are required and Section 10.0323.E.8.-To allow for a six foot high vinyl fence where a six foot high masonry wall and a landscape buffer are required; Located on the northwest corner of 22 Mile Road and Card Road; Section 22; EIG 14T KCE 2 MI Macomb, LLC, Petitioner. Permanent Parcel 08-22-400-023. The variance is tabled to September 5, 2019.

MOTION carried.

7. Public Comments.

None.

8. ZBA Member Comments.

Member TUCKFIELD gave his apologies should he have said something that might have pinned one neighbor against the other.

He also spoke on the variance regarding the fence and landscaping and that there may be a practical difficulty if other portions of the ordinance are meet should the banked parking agreement not go through.

Lastly, he noted that the Planning Commission is looking at putting together goals and objectives to help people look at things.

Member POZZI stated that she would like to add onto Member TUCKFIELD'S comment that if variances are to be taken into consideration that adding the landscape buffer would be more appealing to soften a hard concrete wall and would like to look further into Member TUCKFIELDS comment.

9. PLANNING DIRECTOR COMMENTS

None.

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ADJOURNMENT

MOTION by PIEPER seconded by POZZI to adjourn the meeting at 7:52 p.m.

MOTION carried.

Respectfully submitted,

Aaron Tuckfield, Chairman

Dawn Slosson, Secretary

Beckie Kavanagh, Recording Secretary
bk